

REMARKS/ARGUMENTS

Reconsideration of the above-identified application in view of the present amendment is respectfully requested. By the present amendment, claim 15 is added. Claims 1-11 and 13-15 are currently pending. Claims 13 and 14 are allowed.

Claims 1 and 11 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,250,665 to Sutherland et al. ("Sutherland") in view of U.S. Patent No. 5,199,834 to Seidl et al. ("Seidl") and U.S. Patent No. 4,263,833 to Loudin et al. ("Loudin"). For reasons set forth below, this rejection is traversed.

The M.P.E.P. sets forth the following criteria for establishing an obviousness rejection under 35 U.S.C. §103:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure.

See, M.P.E.P. § 706.02(j) *citing In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). Further, if the proposed combination "would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious." (MPEP §2143.01).

Applicants respectfully submit that the rejection of claims 1 and 11 under 35 U.S.C. §103(a) as being obvious over Sutherland in view of Seidl and Loudin is improper and should be withdrawn for the following reasons:

1. The references do not teach or suggest all of the limitations recited in claims 1 and 11.

Regarding the rejection of claims 1 and 11, Sutherland, Seidl, and Loudin do not teach or suggest a gas bag holding element fastened to a generator holder by at least one drive screw in such a manner that the gas bag cannot be detached from the gas bag module during inflation of gas bag. In Sutherland, the gas bag holding element is fastened to the generator holder by a conventional screw. In Seidel, the drive screw provides a rupturable fastener that secures a gas bag cover to a gas bag module. Loudin teaches a drive screw that overcomes problems associated with conventional rivets and does not include any teachings regarding the use of the drive screw to secure a gas bag holding element to a gas bag module. Sutherland, Seidl, and Loudin clearly do not teach explicitly a gas bag holding element fastened to a generator holder by at least one drive screw in such a manner that the gas bag cannot be detached from the gas bag module during inflation of the gas bag. The analysis thus turns to whether Sutherland, Seidl, and Loudin suggest this structure.

The teachings in Seidel are directed to providing a rupturable fastener and therefore would not suggest to one having ordinary skill in the art to use it to fasten a gas bag holding element to a generator holder in such a manner that the gas bag cannot be detached from the gas bag module during inflation of the gas bag. One skilled in the art would appreciate that, if the rupturable fastener of Seidel was

implemented in this manner, the gas bag holding element would detach upon deployment of the gas bag, causing the gas bag to deflate and rendering it useless.

The teachings of Loudin are directed to providing a reusable drive screw to replace conventional rivets that cannot be reused. Loudin is silent as to replacing conventional screws with a drive screws. This is logical because conventional screws are, by definition, reusable and therefore do not exhibit the perceived inadequacies of rivets that are addressed by Loudin.

The prior art cited in the Office Action, alone or in combination, does not teach or suggest the structure of claims 1 and 11. For this reason, the rejection under 35 U.S.C. §103(a) is improper and should be withdrawn.

2. There is no suggestion or motivation, in Sutherland, Seidl, Loudin, or in the knowledge generally available to one of ordinary skill in the art, to modify or combine the teachings of the references.

In rejecting claims 1 and 11, the Office Action Office Action states that it would obvious to modify Sutherland by replacing conventional screws with drive screws as taught by Seidl and Loudin “in order to simplify and speed up assembly.” This motivation, however, is lacking. There is nothing in Seidl, Loudin, or the level of ordinary skill in the art that would teach or suggest that the conventional screws in Sutherland require replacing in order to simplify and speed up assembly.

Regarding Seidl, it is noted that a prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention. see W.L. Gore & Associates, Inc. v. Garlock, Inc., 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), *cert. denied*, 469 U.S. 851 (1984). It is improper to

combine references where the references teach away from their combination. In re Grasselli, 713 F.2d 731, 743, 218 USPQ 769, 779 (Fed. Cir. 1983)

Seidel teaches a frangible fastener. The fastener in Seidl is used to attach an air bag cover to a base portion of a dashboard. Upon inflation of the air bag, the fastener fractures along frangible means to allow the cover to open and hence, allow quick deployment of the air bag.

The air bag in Sutherland has to remain firmly attached to the gas bag module to be able to provide protection for the vehicle occupant. The forces acting on the air bag during deployment and during the impact of the occupant on the air bag are very high. As the air bag expands abruptly, the retainer has to bear a very high load during deployment. The load carried by the air bag is introduced into the reaction plate and, ultimately, to the vehicle via the screws used to connect retainer with the reaction plate. A person of ordinary skilled in the art will, therefore, look for a fastener that will not fracture or come loose under an axially directed force. Thus, a person skilled in the art would not be motivated to modify Sutherland et al. to use the frangible fastener of Seidl to fasten the air bag of Sutherland to the air bag module. Therefore, there is no motivation or suggestion in Sutherland or Seidl to combine their respective teachings by connecting a gas bag with a generator holder via a gas bag holding element using a drive screw in such a manner that the gas bag cannot be detached from the gas bag module during inflation of the gas bag.

Loudin is related merely to the general idea of replacing rivets with drive pins and states nothing that would suggest employing a drive screw in an air bag module. Loudin discloses only that a drive pin can be used in place of rivets in order to provide a removable connection instead of the more permanent, non-removable

connection afforded by a rivet. Since Loudin replaces a simple rivet with a more complicated structure of the two piece head/shank and pin configuration, Loudin would very likely result in a longer, more complicated installation time compared to that of the conventional rivet which it is to replace. Clearly, Loudin does not provide as a motivation simplifying and speeding up installation time as proposed in the Office Action as being the motivation for combining the references.

Also, since Loudin is directed toward the inadequacies of rivets, it provides no motivation or suggestion to one having ordinary skill in the art to replace the removable conventional screws of Sutherland with a drive screw.

Further, one having ordinary skill in the art, presented with the teachings of Sutherland, would not be motivated to replace the screws with drive pins in order to simplify and speed up assembly. Threaded fasteners are among the most, if not the most, popular and widely used type of fastener. If the motivation set forth in the Office Action exists in the level of ordinary skill in the art, then drive pins, not threaded fasteners, would have this vast popularity. Clearly, the motivation set forth in the Office Action to combine the teachings of Sutherland, Seidl, and Loudin does not exist.

Therefore, it is submitted that there is no suggestion or motivation, in Sutherland, Seidl, Loudin, or in the knowledge generally available to one of ordinary skill in the art, to modify or combine their teachings. For this additional reason, the rejection under 35 U.S.C. §103(a) is improper and should be withdrawn.

3. There is no reasonable expectation of success in modifying Sutherland in view of Seidl.

If the conventional screw of Sutherland was replaced with the drive pin of Seidl, the modified fastener would fracture due to load carried by the air bag during deployment, rendering the gas bag module inoperative. For this additional reason, the rejection under 35 U.S.C. §103(a) is improper and should be withdrawn.

4. The combination of Sutherland, Seidel, and Loudin is improper hindsight reconstruction.

It is respectfully suggested that the obviousness rejection to claims 1 and 11 using Sutherland, Seidl, and Loudin only seems plausible using hindsight after having the benefit of the Applicants' disclosure. The use of the teachings of the present invention to find obviousness is impermissible.

The court must be ever alert not to read obviousness into an invention on the basis of applicant's own statements; that is, we must view the prior art without reading into that art applicant's teachings. The issue, then, is whether the teachings of the prior art would, in and of themselves and without the benefits of appellant's disclosure, make the invention as a whole obvious.

In Re Sponnoble, 160 USPQ 237 at 243 (CCPA 1969) (emphasis in original).

Accordingly, the Examiner must consider only the teachings of the prior art references. As set forth above, there is no motivation or suggestion to combine the teachings of Sutherland, Seidl, and Loudin to make obvious the present invention as recited in claims 1 and 11. Only the present invention recognizes the desire to fasten a gas bag holding element to a generator holder by at least one drive screw in such a manner that the gas bag cannot be detached from the gas bag module during inflation of gas bag. Without the teachings of the present invention, one of ordinary skill in the art would not even consider combining the teachings of Sutherland, Seidl, and Loudin as suggested in the Office Action. For the reasons set forth above, the

rejection of claims 1 and 11 under 35 U.S.C. 103(a) fails to establish a *prima facie* case for obviousness, because there is no suggestion or motivation in Sutherland or Seidl or Loudin or in the knowledge of one of ordinary skill in the art to combine the reference teachings of Sutherland, Seidl, and Loudin as proposed in the rejection of claims 1 and 11.

Therefore, for the above-mentioned reasons, claims 1 and 11 are allowable. Claims 2-10, which depend from claim 1, are allowable as depending from an allowable claim and also for the specific limitations recited therein.

New claim 15, which depends from claim 1, should be allowed for the same reasons as claim 1 and also for the additional feature of a generator flange positioned between said gas bag holding element and the generator holder, the generator flange forming at least a portion of the gas bag holding element. Therefore, claim 15 is allowable.

In view of the foregoing, it is respectfully requested that the amendment be entered and the application allowed.

Please charge any deficiency or credit any overpayment in the fees for this
amendment to our Deposit Account No. 20-0090.

Respectfully submitted,



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